

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:17-CV-00494-GCM**

QUEEN CITY BREAD, INC.,)	
)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
BIMBO FOOD BAKERIES)	
DISTRIBUTION, LLC,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court upon the Plaintiffs Complaint and Motion for Injunctive Relief. The Plaintiff moves the Court to enter a temporary restraining order “enjoining Defendant Bimbo Food Bakeries Distribution, LLC from refusing Plaintiff and Mr. Kriependorf access to the depot; interfering with Plaintiff’s ability to operate its route pursuant to the Distribution agreement; interfering with Plaintiff’s right to operate its route as an independent contractor free from Defendant’s interference; forcing Plaintiff to sell its route, and that Plaintiff get its route back.” (Doc. No. 1-1 at 2).

When a temporary restraining order is entered without notice, Rule 65 requires that the order state the date and hour that it was issued, describe the injury and why it is irreparable, provide reasons for why the order is entered without notice, and be promptly entered on the record. Fed. R. Civ. P. 65(b)(2). In addition, the order must state the reasons why it issued, state its terms specifically and describe in reasonable detail the acts restrained or required. Fed. R. Civ. P. 65(d)(1).

In pursuing a motion pursuant to Fed. R. Civ. P. 65, a plaintiff must establish: (1) a likelihood of success on the merits; (2) that plaintiff is likely to suffer irreparable harm without the issuance of a preliminary injunction; (3) that the balance of the equities are in plaintiff's favor; and (4) that the injunction is in the public interest. *West Virginia Association of Club Owners and Fraternal Services, Inc. v. Musgrave*, 553 F.3d 292, 298 (4th Cir. 2009) (citing *Winter v. Natural Resource Defense Council, Inc.*, 555 U.S. 7, 20 (2008)).

The Plaintiffs herein have failed to make such a showing in their Motion located in their Complaint. Accordingly, the Court will convert the Motion to one for a Preliminary Injunction. Plaintiffs are directed to file a brief in support of their Motion pursuant to Local Rule 7.1(C). Once the Defendants have been served and have had an opportunity to respond, the Court will either schedule a hearing on the motion or proceed to decide the matter.

IT IS THEREFORE ORDERED THAT Plaintiffs' Motion for Temporary Restraining Order is hereby converted into a Motion for Preliminary Injunction and Plaintiffs are directed to file a brief in support of their motion in accordance with Local Rule 7.1(C).

Signed: August 22, 2017

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

